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10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 JOSEPH MORGAN, an Individual

13 Plaintiff,

14 vs.

15 STATE OF NEVADA, *ex rel.* its
16 DEPARTMENT OF BUSINESS AND
INDUSTRY, STATE OF NEVADA, *ex rel.* its
TAXICAB AUTHORITY; BRUCE
17 BRESLOW, in his individual capacity; TERRY
REYNOLDS, in his individual capacity;
SCOTT WHITTEMORE, in his individual
18 capacity; RUBEN AQUINO, in his individual
capacity; GENEVIEVE HUDSON, in her
individual capacity; RONALD GROGAN, in
his individual capacity;
CHARLES HARVEY, in his individual
19 capacity; ANTOINE “CHRIS” RIVERS, in his
individual capacity; CJ MANTHE, in her
individual capacity; DOES I through X
20 inclusive; and ROES XI through XX, inclusive,

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23 Defendants.
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25 Case No.: 2:19-cv-02239-KJD-DJA

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28 **STIPULATION AND ORDER
REGARDING INITIAL DISCLOSURES
AND EXTENSION OF DISCOVERY
DEADLINES**

[FOURTH¹ REQUEST]

¹ The parties’ first request was denied due to addressing the incorrect standard for an extension of deadlines. ECF No. 23. The parties’ current stipulation involves establishing dates by which certain defendants will deliver mandatory disclosures. This is the first time the parties have requested an extension on the standard timeline for those disclosures. The parties’ stipulation also includes a request to extend the discovery deadline in this matter

Pursuant to LR 7-1 and LR 26-3, Plaintiff JOSEPH MORGAN (“Plaintiff”), by and through his counsel of record, E. Brent Bryson, Esq. of the Law Offices of E. Brent Bryson, LTD., and Defendants STATE OF NEVADA, *ex rel.* its DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, *ex rel.* its TAXICAB AUTHORITY (together “the Agency Defendants”) and BRUCE BRESLOW, TERRY REYNOLDS, SCOTT WHITTEMORE, RUBEN AQUINO, GENEVIEVE HUDSON, RONALD GROGAN, CHARLES HARVEY, ANTOINE “CHRIS” RIVERS AND C. J. MANTHE (each an “Individual Defendant” and collectively the “Individual Defendants” and together with the Agency Defendants “the Defendants”), by and through their attorneys of record, AARON D. FORD, Attorney General for the State of Nevada, SCOTT H. HUSBANDS, Deputy Attorney General, and GERALD L. TAN, Deputy Attorney General hereby stipulate and request that this court establish a date by which the Agency Defendants will deliver their mandatory disclosures. The parties also have agreed to extend discovery deadlines and any unexpired deadlines in the above-captioned case for a period of six months. In support of this stipulation and request, the parties state as follows:

I. DISCOVERY COMPLETED TO DATE

1. On December 30, 2019, the Plaintiff filed his Complaint. ECF No. 1.
2. On March 17, 2020, the Defendants filed their Answer to Plaintiff’s Complaint, ECF No. 10, and Defendants’ Certificate of Interested Parties, ECF No. 11.
3. On March 18, 2020, this Court ordered an Early Neutral Evaluation Session (ENE) for June 15, 2020. ECF No. 12.
4. On May 20, 2020, this Court ordered that ENE Confidential Statements were due by June 8, 2020. ECF No. 14.
5. On May 29, 2020, the Defendants filed a Notice of Association of Counsel Deputy Attorney General Gerald L. Tan. ECF. No. 15.
6. On June 2, 2020, the parties stipulated to a 14-day extension of time to exchange

and will be the parties’ fourth request for such an extension.

- 1 FRCP 26 initial disclosures on behalf of the Individual Defendants. ECF No. 16.
- 2 7. On June 3, 2020, this Court granted the parties' request for a 14-day extension of
3 time to exchange FRCP 26 initial disclosures. ECF No. 17.
- 4 8. On June 12, 2020, the Plaintiff provided his initial disclosure of witnesses and
5 documents pursuant to FRCP 26.1(a)(1).
- 6 9. On June 15, an ENE Session was held between the parties but a settlement
7 agreement was not reached. ECF No. 18.
- 8 10. On June 16, 2020, the Individual Defendants provided their initial disclosure of
9 witnesses and documents pursuant to FRCP 26.1(a)(1).
- 10 11. On July 17, 2020, the parties stipulated to a discovery plan and scheduling order.
11 ECF No. 19.
- 12 12. On July 23, 2020, this Court granted the parties' discovery plan and scheduling
13 order. ECF No. 20.
- 14 13. On July 23, 2020, this Court provided Notice Pursuant to LR IB 2-2. ECF No. 21.
- 15 14. On July 23, 2020, this Court granted the parties' discovery plan and scheduling
16 order. ECF No. 20.
- 17 15. On July 23, 2020, this Court provided Notice Pursuant to LR IB 2-2. ECF No. 21.
- 18 16. On October 29, 2020, Plaintiff timely served a set of interrogatories and document
19 requests to each Individual Defendant. These requests were served in compliance
20 with the existing discovery cutoff in place at that time. The parties agreed to extend
21 the deadline for Defendants to provide their discovery responses. Consistent with
22 this agreement, the Individual Defendants served their responses on January 8, 2021.
- 23 17. On October 30, 2020, Plaintiff timely served deposition notices to each of the
24 Individual Defendants. The parties agreed to vacate those depositions in light of
25 their November 2020 stipulation to extend the discovery deadlines and all other
26 unexpired deadlines in this matter. The parties agreed to reschedule these
27 depositions to future agreed-upon dates and times.
- 28 18. On November 12, 2020, pursuant to local rules, counsel for Mr. Morgan and the

1 Individual Defendants met and conferred telephonically regarding a number of issues
2 including discovery matters. That meet and confer resulted in the terms set forth in
3 the parties' November 2020 stipulation. The Court entered an order approving the
4 terms of the parties' stipulation on November 16, 2020. (ECF No. 29).

5 19. On May 4, 2021, the Court entered its order denying a motion to dismiss filed by the
6 Agency Defendants (ECF No. 30). As part of its order, the Court allowed Plaintiff
7 30 days to properly serve these defendants so that they could be made proper parties
8 to the litigation.

9 20. On the same day the Court entered the order referenced above, the undersigned
10 counsel met and conferred on a number of matters including discovery matters.
11 Counsel agreed that the parties needed additional time to conduct their remaining
12 discovery. Further, the parties agreed that the imminent addition of the Agency
13 Defendants greatly expanded the scope of discovery and that additional time would
14 be needed. Counsel agreed that in person depositions were preferable to depositions
15 being taken virtually. The parties prepared a stipulation to extend discovery
16 deadlines in this matter. The Court entered an order approving that stipulation on
17 June 1, 2021.

18 21. On October 29, 2021, Plaintiff noticed the depositions of five of the Individual
19 Defendants. Counsel met and conferred regarding the schedule for these depositions
20 and agreed to postpone the depositions while the parties worked through disclosure
21 issues. The parties agreed that the Agency Defendants would provide their
22 mandatory disclosures by Friday, January 7, 2022 and that the parties would attempt
23 to set the deposition of Ruben Aquino for late January 2022. The parties further
24 agreed that other depositions would follow including that of Plaintiff. Lastly, given
25 the large number of depositions and discovery to be completed, the parties agreed to
26 request another extension of the discovery deadlines in this matter so that depositions
27 could hopefully be completed in person and with the benefit of discovery already
28 having been produced.

1 **II. WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

2 This request for an extension of all unexpired deadlines was initiated upon the mutual
 3 interest of all parties. The Individual Defendants have provided their initial disclosures and
 4 responded to limited written discovery. The parties anticipate the need to conduct further
 5 extensive written discovery. There are a number of depositions of both lay and expert witnesses
 6 that will need to be taken in addition to those depositions already noticed by Plaintiff. Due to the
 7 COVID-19 pandemic and orders of the Governor of the State of Nevada, the parties' progress on
 8 these matters has been slowed despite the best efforts of counsel. Regarding the Agency
 9 Defendants' disclosures, there is a significant volume of materials to review and produce. This
 10 review and production has been delayed as a result of pandemic-related concerns and conflicting
 11 professional obligations in other matters. The parties are hopeful that with an extension of the
 12 deadlines in this matter, that they may be able to take depositions in person soon and that setting
 13 January 7, 2022 as the deadline for the Agency Defendants' disclosures will allow those
 14 disclosures to be completed with enough time for Plaintiff's counsel to review those materials in
 15 advance of any depositions that need to be scheduled.

16 Further, all undersigned counsel, and in particular, Plaintiff's counsel, have had a number
 17 of other matters involving lengthy hearings and trials. This has consumed a great deal of
 18 counsel's time since the parties' last stipulation. These issues, and pandemic-related issues of
 19 remote work and limited resources have greatly complicated the parties' ability to conduct the
 20 extensive discovery that is needed in this matter. Therefore, the parties submit that good cause
 21 exists to the schedule set forth in this stipulation and proposed order, and it is respectfully
 22 requested that the deadlines in this matter be continued.

23 The parties recognize that the Agency Defendants are requesting to submit their
 24 disclosures beyond the date established by the rules and that the parties did not submit their
 25 request to extend prior to the expiration of the date established by the rules. The parties must
 26 therefore demonstrate excusable neglect as to why the request was not made prior to the
 27 expiration of the current date. The rules established a date for the Agency Defendants
 28 disclosures that would have fallen prior to the Agency Defendants' Answer. Therefore, the

1 Agency Defendants would not have been able to request an extension prior to its expiration
 2 because the expiration predated the Agency Defendants' Answer. This is a result of the parties
 3 agreeing to extend the date by which the Agency Defendants would submit their answer.

4 As a result, the parties met and conferred in the late summer as to a schedule by which
 5 the Agency Defendants would produce their disclosures and depositions would be scheduled.
 6 Plaintiff noted his five depositions in October so that the parties could establish some forward
 7 momentum towards completing the extensive discovery in this matter. Given the significant
 8 volume of materials to be disclosed, limited staffing and professional obligations in other matters
 9 that have all been delayed or complicated due to pandemic-related issues, it has taken longer than
 10 expected for the Agency Defendants to gather and produce their disclosures. The parties agree
 11 on the importance of producing those materials in a way that allows Plaintiff's counsel to
 12 thoroughly review those materials prior to any depositions in this matter. The schedule proposed
 13 by this stipulation will allow for that time and seeks an agreed upon extension of the discovery
 14 deadlines in this matter so that the parties can complete the extensive written discovery needed
 15 prior to the depositions that have been discussed. Concurrent with the terms of this stipulation,
 16 the parties are working on a deposition schedule for the first quarter of 2022.

17 **III. REMAINING DISCOVERY**

- 18 1. The Plaintiff will likely serve additional written discovery requests.
- 19 2. Defendants need to serve written discovery requests and Defendants expect to serve
 20 additional written discovery requests as discovery progresses.
- 21 3. The Plaintiff and Defendants need to take the depositions of relevant witnesses and
 22 expert witnesses.
- 23 4. The Agency Defendants will need to provide their mandatory disclosures by January
 24 7, 2022. The first deposition in this matter, that of Individual Defendant Ruben
 25 Aquino, will be set for late January or early February with other depositions to
 26 follow.

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1 **IV. PROPOSED SCHEDULE FOR COMPLETING REMAINING DISCOVERY**

2 Based on the good cause to extend the unexpired discovery deadlines in this case, the
 3 parties submit the following proposed discovery schedule:

Scheduled Event	Current Deadline	Proposed Deadline
Discovery Cut-Off Date	<i>March 11, 2022</i>	<i>September 16, 2022</i>
Dispositive Motions	<i>April 15, 2022</i>	<i>October 14, 2022</i>
Joint Pretrial Order	<i>May 13, 2022</i>	<i>November 18, 2022 (If dispositive motions are filed the deadline for filing the joint pretrial order will be suspended until 30 days after a decision on the dispositive motions or further court order).</i>

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This request for extensions of time is not sought for any improper purpose or other purposes of delay. The COVID-19 pandemic has stalled the parties' attempts to conduct meaningful discovery in this matter. The parties have worked diligently at complying with the deadlines that can be met, but good cause exists to extend the current discovery deadlines.

WHEREFORE, the parties respectfully request that this court set the due date for the Agency Defendants' disclosures to January 7, 2022, and extend discovery dates as outlined in accordance with the table above.

APPROVED AS TO FORM AND CONTENT this 22nd day of December, 2021.

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IT IS SO ORDERED:

DATED this 27th day of December, 2021.

UNITED STATES MAGISTRATE JUDGE